

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:09CR348 CDP
)
MICHAEL WESLEY,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant's motion to suppress identification evidence and motion to suppress evidence and statements.

Pursuant to 28 U.S.C. § 636(b), the motions were referred to United States Magistrate Judge Terry I. Adelman. Judge Adelman held an evidentiary hearing and then filed a Report and Recommendation, which recommended that the motions be denied. Defendant filed timely objections.

I have conducted a *de novo* review of all matters relevant to the motions, including reviewing the search warrant applications and affidavits, the transcript, and the exhibits presented at the hearing. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Adelman set forth in support of his recommended rulings issued on January 12, 2010. In particular, I agree with Judge Adelman that the search warrants for the car and the home were

based on probable cause, and that the searches of the house and the car were constitutionally valid. Additionally, defendant has not shown that the identification testimony by the co-defendants is inadmissible. Finally, because the government has not indicated that it will try to introduce defendant's proffer statements at trial, the motion to suppress statements is moot, although this can be reconsidered if the government decides to use the proffer statements.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge [#107] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant's motion to suppress evidence [#85] and motion to suppress identification testimony [#87] are denied, and the motion to suppress statements [#85] is denied as moot, without prejudice to be reraised if the government attempts to introduce the proffer statement.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 20th day of April, 2010.